

Atty Dkt. No.: LIFE-010
USSN: 09/637,504

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 1-20 are pending after entry of the amendments set forth herein. Each claim was examined and rejected. Please replace independent claims 1, 5, 9 and 16 with the clean version provided above.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**"

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein. No new matter has been added. Reference may be made to the figures and text, especially at page 4, line 1 – page 6, line 18 for support.

Common Ownership

The subject matter of each of the claims was subject to ownership obligations to the Assignee of the present application before any inventions were made. ***PLEASE CONFIRM**

35 U.S.C. §102(b) and §103(a)

In view of the amendments to the claims, it is believed that the distinct nature of a "gimbaled compression pad" previously asserted by Applicants should be clear. As such, it is believed to be distinguished over the cited references in which the Examiner appears to treat their compressible bladders as meeting the limitations of the claims as formerly drafted.

None of the cited references disclose a two-part mechanical system defining a compression member comprising a holder that rotatably interfaces with a portion of another member including a substantially planar surface. That the interface be free to rotate is implicit in the meaning of a gimbal joint or gimbaled structure. See, Merriam-Webster WWW Dictionary, stating:

Main Entry: **¹gim-bal**

Pronunciation: 'gim-b&l, 'jim-

Function: *noun*

Etymology: alteration of obsolete *gemel* (double ring)

Date: 1780

: a device that permits a body to incline freely in any direction or suspends it so that it will remain level when its support is tipped -- usually used in plural; called also *gimbal ring*.

See also, Applicants' specification at page 4, lines 10-12, which is in accord.

By Applicants' amendment, a holder and an interface portion of the pad are elements added to the claims. Further, the claims are clarified to require that the holder serve as an intermediate portion

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between the actuation means and the compression element for contacting an opposing bladder. As such, it is believed that the cited references neither disclose the elements discussed to form a gimbaled compression pad as required, nor is there any relationship of elements present as required by the claims.

As amended, the gimbaled compression pad structures required of each of the pending claims are believed at least to cover a ball-joint configuration as shown in the figures and other hinge configurations. Despite the amended claims' breadth, Applicant cannot conceive how they might be interpreted such that their language reads on a simple membrane over a bladder or a combination that somehow involves a user's finger. If the Examiner is to hold otherwise, a very detailed explanation is respectfully requested so that Applicant can appropriately respond. In any case, withdrawal of the rejections based on the Hurgin *et al.*, Davis, EP'288, and WO '117 is respectfully requested.

Further to this request, Applicants note that the Examiner has not specifically addressed each of the limitations of many of the dependent claims. Particularly, no teaching of any reference is believed to have been applied addressing:

- a) claim 3 - the solenoid,
- b) claim 4 - the lever arm,
- c) claim 7 - the application of uniform pressure,
- d) claim 8 - the magnitude of compressive force, claim 10 regarding the lever arm,
- e) claim 11 - the solenoid,
- f) claim 12 - the chassis attached to the lever arm,
- g) claim 14 - the application of uniform,
- h) claim 14 - the magnitude of compressive force,
- i) claim 17 - where the gimbaled actuator is a component of a meter and the method includes introducing a test strip in the meter,
- j) claim 18 - the lever arm,
- k) claim 19 - the solenoid, or
- l) claim 20 - the chassis attached to the lever arm.

If rejections against these claims are to be maintained, complete rejections – ones that address each claim limitation – should be provided. Without such treatment, no *prima facie* case of obviousness will have been made. If no such case it to be made, these claims should be found allowable to the extent they are not already so in view of the remarks above and amendment clarifying the nature of the "gimbaled compression" member.

Conclusion

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

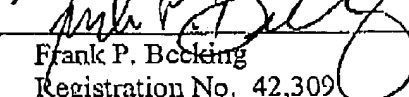
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The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number LIFE-010.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: 11/8/02

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Amended) A gimbaled bladder actuator, said actuator comprising:
a gimbaled compression pad comprising a holder and a compression member including a substantially planar compression element and a portion in said holder to provide a gimbaled interface;
and
an actuating means in contact with said holder for contacting said gimbaled compression pad with a bladder in a manner sufficient to compress said bladder.

5. (Amended) A gimbaled bladder actuator, said actuator comprising:
(a) a gimbaled compression pad comprising a holder and a compression member including a substantially planar compression element and a portion in said holder to provide a gimbaled interface; and
(b) actuating means in contact with said holder for contacting said gimbaled compression pad with a bladder in a manner sufficient to compress said bladder, wherein said actuating means comprises:
(i) a lever arm;
(ii) a chassis; and
(iii) a solenoid.

9. (Amended) An automatic meter for reading a test strip, said meter comprising:
a gimbaled bladder actuator, wherein said gimbaled bladder actuator comprises:
(a) a gimbaled compression pad comprising a holder and a compression member including a substantially planar compression element and a portion in said holder to provide a gimbaled interface; and
(b) actuating means in contact with said holder for contacting said gimbaled compression pad with a bladder in a manner sufficient to compress said bladder.

16. (Amended) A method of moving sample fluid in a test strip that includes a bladder, said method comprising:
(a) positioning a bladder of said test strip in operative relationship with a gimbaled bladder actuator, wherein said gimbaled bladder actuator comprises:

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(i) a gimbaled compression pad comprising a holder and a compression member including a substantially planar compression element and a portion in said holder to provide a gimbaled interface; and

(ii) actuating means in contact with said holder for contacting said gimbaled compression pad with a bladder in a manner sufficient to compress said bladder;

(b) actuating said actuating means in a manner sufficient to compress said bladder;

(c) applying said sample fluid to a sample receiving region of said test strip; and

(d) actuating said actuating means in a manner sufficient to decompress said bladder and thereby move said sample fluid in said test strip;
whereby said sample fluid is moved in said test strip.